

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARCUS DUKES,
Plaintiff,

v.

CATHERINE PAPPAS, Senior Trial Counselor,
Securities and Exchange Commission., *et al.*,
Defendants.

:
: CIVIL ACTION
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: No. 09-3869
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ORDER

YOHN, J.

And now, this 17th day of February, 2010, pursuant to the authority conferred by 28 U.S.C. § 1915(e)(2), it is hereby **ORDERED** that:

1. Leave to proceed *in forma pauperis* is granted.
2. All claims for nonmonetary relief are DISMISSED for lack of standing.
2. All claims arising out of plaintiff's criminal trial and conviction are DISMISSED as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994).
3. All claims against the United States and FINRA are DISMISSED for failure to comply with the exhaustion requirement of the Federal Tort Claims Act.
4. All remaining claims arising out of plaintiff's civil enforcement proceedings are DISMISSED as barred by the doctrine of prosecutorial immunity.
5. All remaining § 1983 and *Bivens* claims arising out of events on or before July 23, 2006, are DISMISSED as time-barred.
6. Defendants Delacy, Curran, Lee, FINRA, and the United States are DISMISSED as parties to this action.
7. Plaintiff is instructed to file a second amended complaint within 30 days, specifying the content and time of each allegedly wrongful statement that the remaining defendants made to FWC members or the public and identifying the particular defendant who made each specific statement. Should the plaintiff not file a second amended complaint as specified, the balance of the claims in the complaint will be dismissed without further notice to the plaintiff.

/s/ William H. Yohn Jr.
William H. Yohn Jr., Judge